

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WAMEL ALLAH,

Plaintiff,

v.

ORDER  
05-CV-865A

CAPTAIN GREIS and  
KEITH DUBRAY,

Defendants.

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This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On January 29, 2007, plaintiff, a *pro se* prisoner, filed a motion for summary judgment, and on February 20, 2007, defendants filed a cross-motion for summary judgment. On August 31, 2007, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that plaintiff's motion be denied and that defendants' cross-motion be granted in part and denied in part.

Defendants filed objections to the Report and Recommendation on September 7, 2007, and plaintiff filed objections on September 10, 2007.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and

Recommendation, and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, plaintiff's motion for summary judgment is denied, and defendants' cross-motion for summary judgment is granted to the extent that plaintiff contends that the untimeliness of the disciplinary hearing violated his due process rights, and is otherwise denied.<sup>1</sup>

The case is referred back to Magistrate Judge McCarthy for further proceedings, including the appointment of *pro bono* counsel on behalf of the plaintiff.

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 13, 2007

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<sup>1</sup> In their objections, defendants argue that plaintiff's claims must be dismissed because he has not established a protected liberty interest stemming from his 100-day period of confinement in the Special Housing Unit. However, defendants did not raise this argument before the Magistrate Judge, so the Court will not consider it now.